

Dec, 18 2015

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SUSAN Y. SOONG  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

Kimberley D. Dawson  
1271 Washington Ave, 216  
San Leandro, California  
Phone: (408) 991-5539

In Sui Juris

**IN THE UNITED STATES DISTRICT COURT AND FOR THE  
NORTHERN DISTRICT OF CALIFORNIA**

KIMBERLEY DAWSON,

Petitioner,

vs.

DARRICK JONATHAN & DEANNA  
CHAVIS, HOUSING & COMMUNITY  
DEVELOPMENT DIVISIONS

Respondent.

Case No. C15-2360-RS

**SECOND AMENDED VERIFIED  
COMPLAINT JURY DEMAND FOR:**

- (1) Breach of contract
- (2) Violating of federal due process

**COMES NOW** plaintiff, KIMBERLEY D. DAWSON, and for causes of action against defendants and DOES 1 through 50, inclusive, alleges as follows:

**GENERAL ALLEGATIONS**

- I. Plaintiff KIMBERLEY D. DAWSON is now, and at all times relevant herein, has been, a resident of the State of California, County of SOLANO

**2. PARTIES, JURISDICTION and VENUE**

**1. Plaintiff is an American residing in Alameda County within the state of California . Aforementioned plaintiff is the beneficiary of the public trust known commonly as the constitution and the supreme law of the land.**

**2. Defendants DERRICK JOHATHAN AND DEANNA CHAVIS resides in Solano county within the state of California.**

**3. HOUSING AND COMMUNITY DEVELOPMENT DIVISION MAY BE SERVED at the primary place of business, California, at all times and places material hereto, was ostensibly acting in their capacity of county employees under color of state law and republic trust power . They are being sued in their individual capacity.**

**4. My case belongs in federal court under federal jurisdiction because it is about federal law (s) or right(s) which law(s) or right(s) are involved? Violation of my federal due process**

**5. The district courts shall have original jurisdiction of all civil actions arising under the constitution, laws, or treaties of the United States. 28 U.S.C. 1331. Venue properly lies in this court given that all parties reside in this federal district.**

**FIRST CLAIM**

**(BREACH OF CONTRACT)**

**AGAINST**

**HOUSING COMMUNITY DEVELOPMENT VALLEJO &**

**DERRICK AND DEANNA CHAVIS**

**8. KIMBERLEY D. DAWSON is a person who has a section 8 voucher and her rights have been violated by the DERRICK AND DEANNA CHAVIS and HOUSING & COMMUNITY**

- 1           2.       Defendant DERRICK AND DEANNA CHAVIS and DOES 1 through 10,  
2               inclusive, are and at all times herein mentioned were, a sole proprietorship  
3               doing business as an landlord in the State of California, County of SOLANO.  
4
- 5           3.       Defendant HOUSING & COMMUNITY DEVELOPMENT DIVISION and  
6               DOES 1 through 10, inclusive, are and at all times herein mentioned were, a  
7               governmental agency in the State of California, County of SOLANO.  
8
- 9           4.       Plaintiff does not know the true names or legal capacities of the defendants  
10              sued herein as Does 1 through 50, inclusive, and therefore sues said  
11              defendants by such fictitious names.  
12
- 13          5.       Plaintiff is informed and believes, and thereupon alleges, that each of the  
14              defendants designated herein as a Doe is legally responsible in some manner  
15              for causing the injuries and damages to plaintiff as hereinafter alleged.  
16
- 17          6.       Plaintiff is informed and believes and thereupon alleges, that each defendant  
18              specifically named or designated herein as a DOE, was the agent,  
19              representative, servant, employee, principal, joint venture, co-conspirator,  
20              management company and/or representative of each of the remaining co-  
21              defendants, and in doing so the acts hereinafter alleged, was acting within the  
22              course and scope of said agency, employment, joint venture, conspiracy,  
23              agreement, management company agreement and/or service with the approval,  
24              knowledge; authority, permission and/or consent of the remaining  
25              defendants.  
26  
27  
28

VERIFIED COMPLAINT

JURY DEMAND - 2

1 DEVELOPMENT DIVISION ("HCDD") when defendants deprived KIMBERLY of prior notice  
 2 of termination, reasonable accommodation of an live-in aide due to her son's disability, refusing  
 3 to give a informal hearing for the composition of family size and income. Removal of three  
 4 tenants from the lease agreement without notice, increase of rents without notice, causing and  
 5 forced eviction. The defendants continue to violate tenant's constitutionally protected rights  
 6 under the federally subsidized housing project.  
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8 **9. PLAINTIFF'S PERFORMANCE OF THE WRITTEN CONTRACT**

9 Plaintiff, KIMBERLY duly performed each and every condition of the agreement to the  
 10 best of her ability.  
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12 **10. DEFENDANTS' BREACH**

13 Plaintiff, KIMBERLY was relocated, due to a substandard unit in which she lived. Prior  
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 15 ALICIA lived in the unit. Upon porting into Vallejo County, KIMBERLY, ASKIA,  
 16 SELEASSIE, AHMED, ALEXANDER, AND MODUPE would be the tenants now reside on the  
 17 voucher. Defendant HCDD failed to re-evaluate the composition of her family size and income,  
 18 causing plaintiff to be serve an eviction for non-payment of rent.  
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23 **12.** It is allege that no Notice of change for the increase of rent was provided.  
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**PLAINTIFF'S DAMAGES**

25 **WHEREFORE,** plaintiff pray for judgment against defendants as follows:  
 26

27 **A.** General damages in the amount of \$25,000

28 **B.** Exemplary or punitive damages as the jury may deem just and proper

*Secmd* AMENDED VERIFIED COMPLAINT

1 503 (i) or 3 (d) (1) [42 U.S.C. 1437a (d) (1)]) representatives of  
2 public housing agencies may only use such information—

3 (i) to verify an applicant's or participant's eligibility for or  
4 level of benefits; or

5 (ii) in the case of an owner or public housing agency  
6 responsible for determining eligibility for or level of  
7 benefits, to inform such owner or public housing agency that an  
8 applicant's or participant's eligibility for or level of  
9 benefits is uncertain and to request such owner or public  
10 housing agency to verify such applicant's or participant's  
11 income information.

12 (B) No Federal, State, or local agency, or public housing  
13 agency, or owner responsible for determining eligibility for or  
14 level of benefits receiving such information may terminate,  
15 deny, suspend, or reduce any benefits of an applicant or  
16 participant until such agency or owner has taken appropriate  
17 steps to independently verify information relating to—

18 (i) The amount of the wages, other earnings or income, or  
19 unemployment compensation involved,

20 (ii) Whether such applicant or participant actually has (or had)  
21 access to such wages, other earnings or income, or benefits for  
22 his or her own use, and

23 (iii) The period or periods when, or with respect to which, the  
24 applicant or participant actually received such wages, other  
25 earnings or income, or benefits.

26 (C) Such applicant or participant shall be informed by the  
27 agency or owner of the findings made by the agency or owner on  
28 the basis of such verified information, and shall be given an

AMENDED VERIFIED COMPLAINT

JURY DEMAND-1

1 increase in rent which is causing the defendant to try to evict  
 2 me! **denial of Due process!** No opportunity to contest was given  
 3 to me the Plaintiff to contest the decisions made by PHA or  
 4 owner to reduce my services, remove children Family members from  
 5 my voucher/household, increase my rent and gives the owner the  
 6 okay to evict me without Due process or the opportunity to  
 7 contest the findings of documents received 10 months ago.  
 8 (example Policy changes have come about because of a class  
 9 action lawsuit brought against the Seattle Housing Authority by  
 10 Columbia Legal Services. As a part of the settlement, SHA agreed  
 11 to change their policies to reflect the following:

- 12 • Section 8 voucher holders can add minors to their vouchers  
 13 without proof of court awarded custody.
- 14 • (i) A family with or without children (a child who is  
 15 temporarily away from the home because of placement in  
 16 foster care is considered a member of the family);
- 17 • PAH must provide tenants with a notice of opportunity for  
 18 judicial review following an adverse termination hearing  
 19 decision.
- 20 Pre-termination conference are now required before a  
 21 termination can move forward, and must include discussion  
 22 of possible reasonable accommodations options.
- 23 • A correction of SHA's definition of disability to include  
 24 temporary disabilities and conform with applicable laws.

25  
 26 **Discrimination**

27  
 28  
 AMENDED VERIFIED COMPLAINT

JURY DEMAND-1

1 decrease in income if the decrease was caused by a deliberate  
2 action of the tenant to avoid paying rent.<sup>49</sup> This will almost  
3 never be the reason a tenant suffers a decrease in income.

4 Second, the owner may refuse to decrease the tenant's rent if  
5 the owner has confirmation that the decrease will last less than  
6 one month.<sup>50</sup> HUD gives the owner the right, however, to process  
7 an interim recertification if it chooses (47 See id. at § 5.657  
8 (c) (2008) ("A family may request an interim reexamination of  
9 family income because of any changes since the last examination.

10 but cautions that an owner must implement this policy  
11 consistently for all tenants.

12  
13 Landlord actions to terminate my tenancy by Eviction is not  
14 based on the rental agreement or nor good cause the action is  
15 based on the Vallejo/ Hayward Housing Authority failure to  
16 adhere and follow HUD federal regulations and guidelines that  
17 apply to the Section 8 program/participants, when there has  
18 been a change in the family income. The owner has the right to  
19 challenge the discrepancy and insist that they make it right  
20 because their actions directly affect both of our families/and  
21 Business. The owners will not request a hearing to dispute the  
22 calculations of income so the right rent is applied, nor as the  
23 owner provided a 30 day notice, or provide a 10 day period to  
24 discuss the proposed termination. They rather impose this cruel  
25 harsh penalty of a fast eviction on me and my venerable family  
26 for PHA administrative error that the owners should be helping  
27 me with or provide a smaller until based on any section 8  
28 changes. (Section 8 is a federal owned program and all owners

AMENDED VERIFIED COMPLAINT

JURY DEMAND-1

1 In addition, when the eviction is based on other good cause, the  
2 termination date must be effective at the end of the lease term  
3 and not during the lease term.<sup>23</sup> Thus, for example, if the  
4 tenant is six months into a one year lease, the landlord may not  
5 evict on grounds that fall under the definition of other good  
6 cause until the lease term has expired. On the other hand, if  
7 the tenant's lease term has expired or the lease is on a month-  
8 to-month basis, the landlord may evict for other good cause  
9 after giving the proper thirty-day notice of proposed  
10 termination. Of course, the owner must prove good cause in court  
11 and cannot simply show that the lease has expired and that he  
12 has given proper notice of termination.<sup>24</sup>

13 **Denial of Due process**

14

15

16 **Notice of Lease Termination.**

17 The notice of termination must comply with certain requirements. It must  
18 state the date the tenancy is terminated; state the reasons for the eviction  
19 with sufficient specificity to enable the tenant to prepare a defense; advise  
20 the tenant that if he or she remains in the apartment on the date specified  
21 for termination, the landlord may seek to enforce the termination only by  
22 bringing a judicial action, at which time the tenant may present a defense;<sup>25</sup>  
23 advise the tenant that he has ten days in which to discuss the proposed  
24 termination of tenancy with the landlord; <sup>26</sup> and advise that persons with  
25 disabilities have the right to request reasonable accommodations to  
26 participate in the hearing process.<sup>27</sup> In addition, the landlord must also  
27 comply with all requirements of state law.<sup>28</sup> No termination is valid unless  
28 the landlord has complied with the federal notice requirements.<sup>29</sup> Subsidized

*Second* AMENDED VERIFIED COMPLAINT



landlords frequently fail to give adequate notice of termination. As noted, it is a defense to eviction when the landlord fails to give proper notice of lease termination. 5 24 C.F.R. § 247.4(a) (2008). A thirty-day notice of termination is required for termination based on good cause.<sup>39</sup> In evictions for criminal activity, alcohol abuse, material noncompliance, or material failure to carry out obligations under a state landlord and tenant act, the notice period is determined by the lease agreement and state law.<sup>40</sup> The landlord may not rely on any grounds in court which are different from the reasons set forth in the termination notice, except those grounds of which the landlord had (24 C.F.R. at § 247.4(e); *Fairview Co. v. Idowu*, *supra* note 31, 559 N.Y.S.2d at 929; see *Leake v. Ellicott Redevelopment Phase II*, *supra* note 29, 470 F. Supp. at 602). no knowledge at the time the termination notice was sent.<sup>41</sup> As noted, the notice of termination must state that the tenant has ten days in which to discuss the proposed eviction with the landlord.<sup>42</sup>

#### **Denial of Due process**

#### **Nonpayment of Rent Evictions.**

Evictions for alleged nonpayment of rent must always be scrutinized especially carefully, because many possible defenses are available. If the facts show that the eviction is truly for nonpayment of rent (as distinguished from nonpayment of other charges), the reason for the default should be examined. If, for example, the tenant did not pay because of a decrease in income, the tenant family is entitled to have its rent reduced.<sup>47</sup> Only two exceptions to this rule exist.<sup>48</sup> First, an owner may refuse to process an interim adjustment when the tenant reports a

AMENDED VERIFIED COMPLAINT

JURY DEMAND-1

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*Second* AMENDED VERIFIED COMPLAINT

1 opportunity to contest such findings, in the same manner as  
 2 applies to other information and findings relating to  
 3 eligibility factors under the program.

4  
 5 **(3) Penalty**

6 (A) Any person who knowingly and willfully requests or obtains  
 7 any information concerning an applicant or participant pursuant  
 8 to the authority contained in section 503 (i) of this title,  
 9 section 3(d)(1) of the United States Housing Act of 1937 [42  
 10 U.S.C. 1437a (d)(1)], or section 6103 (1)(7)(D)(ix) of title 26  
 11 without consent or agreement, as applicable, pursuant to  
 12 subsection (b) of this section or under false pretenses, or any  
 13 person who knowingly and willfully discloses any such  
 14 information in any manner to any individual not entitled under  
 15 any law to receive it, shall be guilty of a misdemeanor and  
 16 fined not more than \$5,000. The term "person" as used in this  
 17 paragraph shall include an officer or employee of the Department  
 18 of Housing and Urban Development, an officer or employee of any  
 19 public housing agency, and any owner responsible for determining  
 20 eligibility for or level of benefits (or employee thereof).

21 (B) Any applicant or participant affected by  
 22 (i) **a negligent or knowing disclosure of information referred to**  
 23 **in this section, section 503 (i) of this title, section 3(d)(1)**  
 24 **of the United States Housing Act of 1937 [42 U.S.C. 1437a**  
 25 **(d)(1)], or section 6103 (1)(7)(D)(ix) of title 26 about such**  
 26 **person by an officer or employee of any public housing agency or**  
 27 **owner (or employee thereof), which disclosure is not authorized**  
 28 **by this section, such section 503 (i), such section 3 (d)(1) [42**  
**U.S.C. 1437a (d)(1)], such section 6103 (1)(7)(D)(ix), or any**  
**regulation implementing this section, such section 503 (i), such**  
**section 3 (d)(1) [42 U.S.C. 1437a (d)(1)], or such section 6103**  
**(1)(7)(D)(ix), or for which consent, pursuant to subsection (b)**  
**of this section, has not been granted, or**  
 (ii) **any other negligent or knowing action that is inconsistent**  
**with this section, such section 503 (i), such section 3 (d)(1)**  
**[42 U.S.C. 1437a (d)(1)], such section 6103 (1)(7)(D)(ix), or**  
**any such implementing regulation may bring a civil action for**  
**damages and such other relief as may be appropriate against any**  
**officer or employee of any public housing agency or owner (or**  
**employee thereof) responsible for any such unauthorized action.**

AMENDED VERIFIED COMPLAINT

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27 A. General damages in the amount of \$25,000

28 B. Exemplary or punitive damages as the jury may deem just and proper

AMENDED VERIFIED COMPLAINT

JURY DEMAND - 4

1 personal privacy or modesty, only be performed by a member of  
2 the same sex as those receiving the services. B) Section 109 of  
3 the Act does not directly prohibit discrimination on the basis  
4 of age or disability, but directs that the prohibitions against  
5 discrimination on the basis of age [48 FR 22915, May 23, 1983.  
6 Re designated and amended at 49 FR 6713, 6715, Feb. 23,  
7 1984]3)(i) In administering a program or activity in which the  
8 Recipient has discriminated on the grounds of race, color,  
9 national origin, religion or sex,  
10 the Recipient must take any necessary steps to overcome the  
11 effects of prior discrimination.(ii) In the absence of  
12 discrimination, a Recipient, in administering a program or  
13 activity, Recipient may not make selections that have the  
14 purpose or effect of defeating or substantially impairing the  
15 accomplishment of the objectives of section 109 and of this part  
16 6 may take any steps necessary to overcome the effects of  
17 conditions admitting participation by persons of a particular  
18 race, color, national origin religion sex

19 Discrimination cont

20 *(iii) After a finding of noncompliance, or after a Recipient*  
21 *has reasonable cause to believe that **discrimination has***  
22 ***occurred, a Recipient shall not be prohibited by this section***  
23 ***from taking any action** eligible under sub part C of 24 CFR part*  
24 *570 to ameliorate an imbalance in benefits, services or*  
25 *facilities provided to any geographic area or specific group of*  
26 *persons within its jurisdiction, where the purpose of such*  
27 *action is to remedy discriminatory practices or usage.*

28  
AMENDED VERIFIED COMPLAINT

JURY DEMAND-1



1 C. Mental Anguish in the amount of \$25,000

2 D. Illegally eviction

3 E. Special damages in the amount of \$25,000.

4 F. For plaintiff's costs of suit herein; and

5 G. For such and further relief as to the Court may deem just and proper.

6 I verify under penalty of perjury under the laws of the United States of America that the  
7 foregoing is true and correct to the best of my knowledge.  
8  
9

10 Dated

Dec 18 2015

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13 KIMBERLY D. DAWSON-SUI JURIS  
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AMENDED VERIFIED COMPLAINT

JURY DEMAND - 5



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### **Denial of Due process**

### **Nonpayment of Rent Evictions.**

Evictions for alleged nonpayment of rent must always be scrutinized especially carefully, because many possible defenses are available. If the facts show that the eviction is truly for nonpayment of rent (as distinguished from nonpayment of other charges), the reason for the default should be examined. If, for example, the tenant did not pay because of a decrease in income, the tenant family is entitled to have its rent reduced.<sup>47</sup> Only two exceptions to this rule exist.<sup>48</sup> First, an owner may refuse to process an interim adjustment when the tenant reports a

AMENDED VERIFIED COMPLAINT

JURY DEMAND-1

1 increase in rent which is causing the defendant to try to evict  
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 4 owner to reduce my services, remove children Family members from  
 5 my voucher/household, increase my rent and gives the owner the  
 6 okay to evict me without Due process or the opportunity to  
 7 contest the findings of documents received 10 months ago.  
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 9 action lawsuit brought against the Seattle Housing Authority by  
 10 Columbia Legal Services. As a part of the settlement, SHA agreed  
 11 to change their policies to reflect the following:

- 12 • Section 8 voucher holders can add minors to their vouchers  
 13 without proof of court awarded custody.
- 14 • (i) A family with or without children (a child who is  
 15 temporarily away from the home because of placement in  
 16 foster care is considered a member of the family);
- 17 • PAH must provide tenants with a notice of opportunity for  
 18 judicial review following an adverse termination hearing  
 19 decision.
- 20 Pre-termination conference are now required before a  
 21 termination can move forward, and must include discussion  
 22 of possible reasonable accommodations options.
- 23 • A correction of SHA's definition of disability to include  
 24 temporary disabilities and conform with applicable laws.

25  
 26 **Discrimination**

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JURY DEMAND-1

1 (iv) (A) Notwithstanding anything to the contrary in this part,  
2 nothing contained in this section shall be construed to prohibit  
3 any Recipient from maintaining or constructing separate living  
4 facilities or restroom facilities for the different sexes in  
5 order to protect personal privacy or modesty concerns.

6 Furthermore, selectivity on the basis of sex is not prohibited  
7 when institutional or custodial services can, in the interest of  
8 personal privacy or modesty, only be performed by a member of  
9 the same sex as those receiving the services. B) Section 109 of  
10 the Act does not directly prohibit discrimination on the basis  
11 of age or disability, but directs that the prohibitions against  
12 discrimination on the basis of age (NOTE

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14 **§5.236 Procedures for termination, denial, suspension, or**  
15 **reduction of** assistance based on information obtained from a  
16 SWICA or Federal agency.

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1 MUST abide my HUD regulations) I have been denial of Due process  
 2 based on these reasons! The owners are totally aware of this  
 3 unlawful action and are deliberately trying to take my voucher;  
 4 the owner has stated this to me several times! This action  
 5 would take my voucher that I've maintained with integrity for  
 6 over 20 years and put us out in the street by force because of a  
 7 calculation error and owners conflict of interested relation  
 8 with the VHA. The owners are ready to put my 7month pregnant  
 9 daughter my Disabled Son out and displace them with nowhere to  
 10 go. We have paid our rent successfully our first year of renting  
 11 from these owners. My family can't withstand being homeless,  
 12 this evil action would cause extreme hardship.

#### 15 **Applicant and participant protections**

16 (A) In order to protect applicants for, and recipients of,  
 17 benefits under the programs of the Department of Housing and  
 18 Urban Development from the improper use of information obtained  
 19 pursuant to the requirements of section (i) of this title from  
 20 the State agency charged with the administration of the State  
 21 unemployment compensation law, pursuant to section 3(d)(1) of  
 22 the United States Housing Act of 1937 [42 U.S.C. 1437a (d)(1)]  
 23 from the applicant or participant, or pursuant to section 6103  
 24 (1)(7)(D)(ix) of title 26 from the Commissioner of Social  
 25 Security or the Secretary of the Treasury, officers and  
 26 employees of the Department of Housing and Urban Development and  
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1 The district court of the United States in the district in which  
 2 the affected applicant or participant resides, in which such  
 3 unauthorized action occurred, or in which the applicant or  
 4 participant alleged to be responsible for any such unauthorized  
 5 action resides, shall have jurisdiction in such matters.

6 Appropriate relief that may be ordered by such district courts  
 7 shall include reasonable attorney's fees and other litigation  
 8 costs.

9 **(a)**

10 ***Change in family composition, family's notification.***

11 (b) The family shall notify the owner of a change in family  
 12 composition and shall transfer to an appropriate size  
 13 dwelling unit, based on family composition, upon  
 14 appropriate notice by the owner of HUD that such a  
 dwelling unit is available. Such a family shall have  
 priority over a family on the owner's waiting list  
 seeking the same size unit.

15 (b) *Change in family composition, owner's responsibilities.* Upon  
 16 receipt by the owner of a notification by the family of a change  
 17 in the family size, the owner agrees to offer the family a  
 18 suitable unit as soon as one becomes vacant and ready for  
 19 occupancy. If the owner does not have any suitable units or if  
 no vacancy of a suitable unit occurs within a reasonable time,  
 HUD may assist the family in finding a suitable dwelling unit  
 and require the family to move to such unit as soon as possible.

20 (c) *HUD actions if appropriate size unit is not made available.*  
 21 If the owner fails to offer the family a unit appropriate for  
 22 the size of the family when such unit becomes vacant and ready  
 for occupancy, HUD may abate housing assistance payments to the  
 owner for the unit occupied by the family and assist the family  
 in finding a suitable dwelling unit elsewhere.

23 [46 FR 19467, Mar. 31, 1981]

24  
 25 **Denial of Due process**

26 VHA removed minors from my household without notice, based on  
 27 third part information that was sent to them saying that I  
 28 didn't have custody of my grandchildren causing an outrage

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